

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

<b>ALLEN KELLY,</b>	:	<b>CIVIL ACTION NO. 1:14-CV-2322</b>
	:	
<b>Plaintiff</b>	:	<b>(Chief Judge Conner)</b>
	:	
<b>v.</b>	:	
	:	
<b>J.T. MERRELL, <i>et al.</i>,</b>	:	
	:	
<b>Defendants</b>	:	

**ORDER**

AND NOW, this 27th day of September, 2016, upon consideration of the court's order (Doc. 32) dated September 8, 2015, wherein the court adopted the report (Doc. 26) and recommendations of Chief Magistrate Judge Martin C. Carlson, dismissing plaintiff's claims with prejudice against, *inter alia*, Huntingdon County Court of Common Pleas Judge Stewart L. Kurtz ("Judge Kurtz"), pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii), but it appearing that, on January 19, 2016, waiver of service forms were inadvertently mailed to Judge Kurtz despite his dismissal with prejudice, (see Doc. 42-1 at 1-6), and that Judge Kurtz, through counsel, protectively filed a motion (Doc. 44) to dismiss pursuant to Rules 12(b)(1) and 12(b)(6) of the Federal Rules of Civil Procedure on February 11, 2016, and the court concluding that the arguments and defenses raised in Judge Kurtz's motion are

moot in light of the prejudicial dismissal of all claims thereagainst, (Doc. 32), it is hereby ORDERED that Judge Kurtz's motion (Doc. 44) is DISMISSED as moot.

/S/ CHRISTOPHER C. CONNER  
Christopher C. Conner, Chief Judge  
United States District Court  
Middle District of Pennsylvania